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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,376	08/03/2001	Jeffrey Lynn Chamberlain	75	7492

7590

06/21/2002

Charles R. Sutton
14507 Sylvan St., Ste. 208
Van Nuys, CA 91411

EXAMINER

SMITH, KIMBERLY S

ART UNIT

PAPER NUMBER

3644

DATE MAILED: 06/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/922,376

Applicant(s)

CHAMBERLAIN, JEFFREY LYNN

Examiner

Kimberly S. Smith

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(c) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the attachment means must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to because Figure 6 details the opening of the valve when introduced to direct pressure. However, this figure shows the wall by the return means flexing outwardly with respect to the reservoir where, if the valve were introduced to direct pressure as stated, the wall would be flexing inward towards the reservoir. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.84(h)(5) because Figure 1 show(s) modified forms of construction in the same view. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. It is suggested the cross sectional view of figure one be detailed with a separate figure number and be referenced in the specification as being the cross sectional view taken along the line 1-1 of Figure 1.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear, given the specification, as to how the valves are nipple-like structures. It appears from figure 4 that the outer layer and subsequent reservoir are the nipple-like structure on which the valves are mounted.

6. Regarding claims 8 and 9, it is unclear as to what the applicant is claiming. It is suggested the applicant either replace "further comprising" with - -wherein- - or insert - - application of- - prior to "pressure" and replace "is" with - -being- - to clarify the language of the claim.

7. The term "greater pressure" in claim 15 is a relative term which renders the claim indefinite. The term "greater pressure" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is not clear as to what the pressure is to be greater than.

8. The term "nipple-like" in claim 6,14,20 is a relative term which renders the claim indefinite. The term "nipple-like" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 2, 7-9, 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorta, US Patent 5,495,870.

Dorta discloses a reservoir having a wall (30), fill aperture (seen in figure 3) and a valve {comprising bores} (24) having a closeable openable cap (column 6, lines 36-39), wherein the valves have a pressure actuated opening means (abstract). While Dorta only discloses one valve, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use more than one valve, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. The invention further comprising an outer layer (26) enclosing said wall and having an aesthetic design; wherein the valves are nipple-like structures; wherein pressure is applied to the valve mechanism (i.e. sucking), wherein the pressure is applied to the wall (see abstract); wherein the valves are located on a nipple-like structure extending from the wall.

11. Claims 15, 16, and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warehime, US Patent 4,930,645.

Warehime discloses a reservoir having a wall (figure 1), a fill aperture (14) and a valve (7), the wall being compressible, and the fill aperture having an airtight openable cap (4), wherein said valve is a slit deformable by pressure. While Warehime only discloses a single

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valve, it would have been obvious to one having ordinary skill in the art to duplicate the valve as it has been held that the mere duplication of essential working parts only requires routine skill in the art. Further comprising an outer layer (seen in figure 1) having an aesthetic design; further comprising a cord (11) having an attachment means (10); further comprising a noisemaker (47) contained within the reservoir, wherein the reservoir has a nipple-like structure where said valves are located on said nipple-like structure.

12. Claims 3 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorta as applied to claims 2 and 11 respectively in view of Sofia et al., US Patent 5,993,285 (Sofia).

Dorta discloses the invention substantially as claimed. Dorta however does not disclose the use of indicia on the outer layer of the device. Sofia discloses within the same field of endeavor the use of indicia on the outer layer of an animal device for the purpose of making the device more attractive to it's intended user. It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teachings of Sofia's indicia to the toy of Dorta to enhance the appeal for the user.

13. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorta as applied to claim 1 and 7, respectively in view of Rubin, US Patent 5,865,147.

Dorta discloses the invention substantially as claimed. However, Dorta does not disclose the use of a cord. Rubin teaches within the same field of endeavor the use of a cord having an attachment means in order to hang the toy. It would have been obvious to one having ordinary skill in the art at the time the invention was made to attach a cord as taught by Rubin to the toy disclosed by Dorta in order to hang the toy.

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14. Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorta as applied to claims 1 and 7 respectively in view of Warehime, US Patent 4,930,645.

Dorta discloses the invention substantially as claimed. However, Dorta does not disclose the use of a noisemaker in the reservoir. Warehime teaches the use of a noisemaker (47) to enhance the toy effect of the device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teaching of Warehime's noisemaker to the invention disclosed by Dorta in order to enhance its toy effect.

15. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Warehime as applied to claim 16 and further in view of Sofia et al., US Patent 5,993,285.

Warehime discloses the invention substantially as claimed. Warehime however does not disclose the use of indicia on the outer layer of the device. Sofia discloses within the same field of endeavor the use of indicia on the outer layer of an animal device for the purpose of making the device more attractive to its intended user. It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the teachings of Sofia's indicia to the device of Warehime to enhance the appeal for the user.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. LaPlaca et al. (6,296,540), Thompson (US 4,573,433), Russell et al (3,220,609), Markham et al. (US 6,129,053), DiResta et al. (US 6,109,998), Muir (GB 2 223 153 A)..

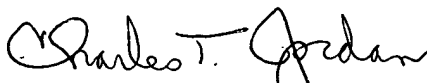
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly S. Smith whose telephone number is 703-308-8515.

The examiner can normally be reached on Monday thru Friday (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T Jordan can be reached on 703-306-4159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.


CHARLES T. JORDAN
SUPERVISOR, PATENT EXAMINER
TECHNOLOGY CENTER 3600

Kimberly S. Smith
Examiner
Art Unit 3644

kss
June 12, 2002